

FINAL REPORT

AMIDEAST Project to Strengthen the Legal Profession (SLP)

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Introduction

The Project to Strengthen the Palestinian legal Profession (SLP) came into existence in October 1999, pursuant to a cooperative agreement (Grant # 294-A-00-99-00133-00) concluded between AMIDEAST and USAID. The ultimate goal of the project was to promote more responsive and accountable governance in the Palestinian Authority through increased professionalism of the legal community. Our sole local partner in this endeavor was the newly-established Palestinian Bar Association (PBA).

The Project office opened Ramallah, Palestinian Authority (P.A.), in December 1999. SLP moved its project office to Jerusalem in October 2000 due to the upsurge of Israeli-Palestinian violence (the so-called "Al-Aqsa Intifada") that same month. The project closed on May 31, 2002, six months earlier than originally planned, due to the outbreak of full-scale war in March and April 2002, the destruction of much of the P.A. and changing program priorities at USAID.

Despite setbacks due to the Intifada and the curtailment of the project, SLP achieved many of the of the original project goals, and did substantial work on those activities it did not complete. As of today, thanks to SLP, the PBA will be in a better position to confront the tremendous challenges facing all Palestinian institutions. Under very adverse conditions, SLP helped lay a firm foundation for future work in the Palestinian legal sector.

Project Goals

SLP's specific objectives were to:

- Upgrade the PBA's library resources, enhance PBA members' access to legal resources and reference materials, and provide the PBA with equipment and means necessary to access Internet and other electronic legal data bases;
- Develop and administer a continuing legal education (CLE) program through the PBA;
- Develop and implement guidelines that formalize the PBA's apprenticeship program for new lawyers, and improve bar admittance procedures;
- Develop and apply a code of professional conduct among lawyers.
- Enhance the PBA's capacity for effective Bar governance (note--this was not in technical proposal; this goal was added at the urging of USAID June 2000)

Narrative History

The Project to Strengthen the Palestinian Legal Profession (SLP) was established upon two basic assumptions—(1) that the Palestinian Bar Association (PBA) would have a mandate acquired through elections to act decisively to achieve program objectives, and that (2) the calm that had prevailed through the late 1990's would continue. Neither assumption proved correct. The PBA elections, which were to have taken place December 1999 were postponed repeated, and to date have still not taken place. Our other basic assumption, continuing peace, proved incorrect when the Al-Aqsa Intifada erupted in late September 2000. The Intifada continued throughout the life of the project.

The PBA

PA President Yasser Arafat created the PBA by a decree in 1998, later confirmed by legislation in 1999, combining the Gaza Bar Association with several West Bank bar associations. It has dual headquarters in Gaza and Ramallah, with paid staff in both locations, and unstaffed regional offices in Khan Younis, Hebron and Nablus. Approximately 1000 full members and another 500 trainee members belonged to the association at the outset. The PBA draws its revenues from member subscriptions and fees. A fledgling organization, the PBA lacked both the physical and intellectual infrastructure that most mature bar associations possess.

The PBA is legally a quasi-governmental body, but in practice it is more like a private voluntary organization (PVO) with a small budget and staff. In addition to the depressing list of problems arising from the political and security situation, it has all the “normal” problems frequently associated with a start-up PVO. The governing body is made up of volunteers, and bar business is often a significant burden on board members already hard-pressed to make a living. The paid staff was not particularly well trained or well managed. The organization budget is inadequate to the needs of the bar. The physical state of the bar offices was appalling.

Internal governance had been a problem for the PBA right from the start. The problem can be summed up in a word: elections. President Arafat appointed an interim governing board for the PBA at its creation, empowered to promulgate by-laws and conduct elections by May 2000. Everyone's expectation was that elections would take place late 1999 or early 2000. The interim board failed to accomplish its mandate by the date set. A group of disgruntled lawyers sued the PBA in May 2000, alleging that the interim board had no authority as its legal mandate had run out.

After the filing of the law suit, USAID asked AMIDEAST to add “effective bar governance” to SLP's list of program objectives, in response to the mounting problems in the PBA. Due to the turmoil at the PBA, our work plan was evolving in the first months of the project. In June, USAID urged SLP to organize activities that would help the PBA address its governance problems, which we did. In August, USAID also gave us permission to spend money on the PBA libraries and offices. USAID instructed us to leave the other, more controversial, goals until an elected board with a popular mandate was in place.

In July 2000, a Gaza court dismissed the case against the interim bar-board, and extended the time within which elections could be organized. The court, however, did order the interim board to organize a general assembly and elections as soon as possible. In

September 2000, the PBA held a general assembly, at which the assembly adopted by-laws, and established that elections would take place in February 2001. The PBA by-laws were drafted and promulgated with significant assistance from SLP.

The bar-board tried to call elections in March 2001. Days before elections were to take place another group of disgruntled lawyers brought suit, alleging that the elections could not go forward because the Intifada and closures made it impossible for the bar to hold a free and fair election. The court issued an injunction halting elections. No further action has taken place since then, and the bar remains at an impasse. In January 2002, members of the interim bar-board announced publicly that they planned to hold elections at the end of February 2002. The rapid escalation of hostilities in February, leading up to full-scale war, however, quickly swept the possibility of elections off the table.

Al-Aqsa Intifada

Our other basic assumption, continuing peace, also proved incorrect. In late September 2000 widespread anti-Israeli riots broke out among Palestinians throughout the PA, in Jerusalem, and in several Israeli-Arab towns. Israel responded aggressively, leading to numerous armed confrontations and many civilian deaths. The situation quickly escalated, and both Ramallah and Gaza witnessed pitched battles between the Israeli army and Palestinian gunmen.

In October 2000, USAID ordered all projects to evacuate the West Bank and Gaza, and ordered all contractor and grantee staff that were overseas to stay out of the country. Later that same month, USAID requested that SLP, along with other contractors and grantees, submit an emergency work plan explaining how we planned to adjust our programs to cope with the mounting violence. In November we submitted our plan, stating that for the short term we would concentrate on establishing the PBA library, developing a PBA web site, and building a usable PBA membership files and database. This plan was accepted in lieu of a formal work plan, and served as our operational document for most of FY-2001 (our program year corresponded with the fiscal year).

The outbreak of the Al-Aqsa Intifada took a toll on the PBA. The Bar's revenues are reduced because many members have been unable to pay dues or fees. Staff are unable to get to work at times, the bar board has not been able to meet with regularity, and a general assembly of the membership has been impossible. The PBA's ability to make strategic decisions, communicate internally, build consensus, and plan for the future had been impaired by the Intifada.

While the violence continued, USAID determined in December 2000 that it could not legally prohibit contractor and grantee staff from re-entering the Palestinian areas, and gave us the option of basing ourselves in Jerusalem or the Palestinian Authority. In November, we had moved our base of operation to Jerusalem, feeling it to be a safer location than Ramallah.

SLP staff resumed regular travel into the PA in December. At that time, we decided that it would be very unwise to bring international legal experts to the West Bank and Gaza to assist us in our work with the PBA. The use of *pro bono* legal consultants had been a key part of our strategy, and a key cost sharing component.

From December 2000 through June 2001, shootings at checkpoints were common. Small terrorist bombs in Jerusalem and elsewhere occasionally went off, but without significant casualties resulting. In that period of time Israel began systematically closing off Palestinian towns and cities (the “closures”) to the outside world; the closures, however, did not greatly affect our work at the time, as Israel continued to permit U.S. passport holders to enter PA towns. July-September 2001 witnessed a serious escalation of violence. A combination of aggravating political factors, such as the seizure by Israel of Orient House, the assassination of several highly placed Palestinians, and a series of powerful terror bombs in Jerusalem and Tel Aviv led to renewed armed clashes and impassable checkpoints. In August 2001, an Israeli soldier opened fire on the SLP project car, damaging the car and injuring one staff member. Ironically, the shock and horror of the September 11 bombings in New York and Washington sobered Israeli and Palestinian combatants for a period of time thereafter.

After a brief lull in September and October 2001, violence escalated almost without interruption from October 2001 to May 2002. The latter stages of the escalation had horrific consequences—almost daily suicide bombers in Jerusalem and elsewhere with scores of casualties, repeated tank incursions into most Palestinian towns, air strikes by fighter aircraft throughout the West Bank and Gaza Strip, the complete collapse of the already battered Palestinian economy, the Israeli takeover of all towns and cities in the West Bank and imposition of 24/7 curfews for weeks on end, the arrest and detention of Yasser Arafat by Israel, gun battles in and around the Church of the Nativity in Bethlehem, and massive civilian casualties as a result of sniper fire, random shootings and house demolitions.

Program Accomplishments

Below, I will review some of the accomplishments of SLP over the past 30 months. This is not a full list of our activities, for which the quarterly reports should be consulted, but reflects accomplishments that further our core objectives.

Effective Governance

- **PBA By-laws:** By-laws adopted by the PBA in September 2000 were facilitated by SLP through drafting conferences organized by SLP in June and July 2000.
- **PBA Web Site:** We started work on the site December 2000, and largely finished it June 2001. Since that time the PBA has maintained and updated the site by itself. Then site is at www.pbanet.org.
- **PBA Membership Database:** We commissioned a custom-designed Arabic database to serve as the primary membership and record-keeping tool for the PBA. Building the database turned out to be the easy part. What took a great deal of time was amassing the data on the entire membership of the PBA, which we did by means of public advertisements, calling up lawyers at home, grabbing them when they came to the Bar, and combing through PBA paper records. We assisted the PBA to amass complete records on all West Bank and Gaza practicing lawyers. As of the date that the project was terminated, we had entered all of the West Bank lawyers into the database, and were in the process of entering the Gaza lawyers.

- Video-Conferencing at the PBA: One of the big problems at the PBA after the outbreak of the Intifada was that all PBA business that required co-ordination between Gaza and Ramallah ceased. No meetings of the bar-board took place, no profession-wide meetings, and no conferences involving both Gazans and West Bank lawyers. To meet this urgent need, SLP created at the Bar two state of the art video-conferencing centers. The facility permits joint meetings to take place between Gaza and Ramallah with up to 70 participants on either side. The facility is being used on a regular basis for meetings of the PBA board, and for conferences taking place at the PBA.
- Physical Restructuring: We found that work at the PBA was hampered by a very poorly laid out office in Gaza. The primary function of the PBA, registration of lawyers, was crammed into one small room, the library crammed into another small room, and great amounts of space left unused. We also found that the physical space was decrepit and parts of it unusable. For a negligible outlay of funds, and some sweat equity, we drew up plans for a reorganized PBA, moved the furniture, installed necessary book shelves, and designated new areas to serve as primary work rooms, library, conference rooms, and training hall. We carved off unused space to serve as the new computer lab (see below). The PBA, using its own funds, renovated their kitchen, planted gardens outside, and built a terrace that now serves as a café for the lawyers. The lawyers loved it, and flocked to the “new” PBA and its café.

Library & Information Technology

- Core library collection: We surveyed lawyers’ needs, and purchased core book collections for PBA libraries in Gaza and Ramallah. The collections are small (2,500 volumes approx.) but contain essential texts for the practicing lawyer. We have gotten very positive feedback from lawyers using the libraries, and usage has increased steadily despite political turmoil this past year.
- Electronic collection: In addition to hard-copy books, we acquired a number of CD-ROM resources for the PBA, and made the Muqtafi (Bir Zeit) database available at the Bar.
- Library catalogue: Every item in the library is catalogued (in Arabic) according to the Library of Congress system. Search terms and key words have also been entered into the system. The catalogue is available in the library, over the PBA LAN, and on the internet at www.pbanet.org.
- Library training: We have made trained librarians available to library patrons to assist them with research, and offer library orientation seminars to every one who goes to the PBA. The PBA plans to continue offering library training and reference assistance after the termination of SLP.
- Computer labs: We established up to date computer labs in both Gaza and Ramallah libraries. In each location there are eight computers and a server tied together on a local area network (LAN), with access to all the library resources and the Internet.
- Computer training: We offer a 44 hour computer training courses to lawyers covering the Windows operating system, MS Office Suite, and Internet applications, including

a section on on-line legal research. We have trained hundreds of lawyers already. The PBA plans to continue offering free computer training to lawyers after the termination of SLP.

Continuing Legal Education (CLE)

In the course of the project, SLP has made numerous of continuing education offerings available to lawyers. Highlights include:

- Computer & library training: Discussed above in library section.
- Masters' Course on Legal Ethics: Course developed and taught by SLP staff to Lawyers in Masters' program at Bir Zeit university.
- English Legal Terminology Course: Developed and taught by SLP staff to lawyers in Nablus and Ramallah.
- Conference on the new law of the judiciary: Co-sponsored by the PBA and SLP, the conference discussed the changes to the law, and approximately 80 attendees in Gaza and Ramallah voiced criticisms of the legislation. After the conference, the PBA promulgated draft recommendations for reform of the law.

Legal Ethics

- Masters' Class in Legal Ethics: See above under CLE.
- Background Materials & Studies: SLP compiled an exhaustive file on Arabic language resources in the area of professional ethics in general and legal ethics in particular. The compilation includes statutes and regulatory provisions from around the Arab world, translations of American and other international source materials, and several draft ethical codes.
- Draft Code of Ethics: We distilled from the background materials mentioned above a draft code of ethics that we submitted to the PBA for its consideration.
- Ethics Questionnaire: We also drafted an extensive questionnaire to solicit broad practitioner input into the eventual shape of the PBA ethics system. The questionnaire was circulated widely. However, due to the cancellation of the project we were never able to collect and compile the responses.
- Case Management Software: The single biggest cause of ethical lapses among lawyers in the United States is not dishonesty or attorney-client conflicts, but simple failure to manage the myriad details of litigation adequately. Our idea was to develop an Arabic software database package that lawyers could use to better keep track of all the details of litigation. Our software consultant lives in a village near Ramallah; he designed and built the package in March and April 2002 while he and his family were trapped in his home due to the fighting raging all around him. He finished it shortly before our termination. The case management database will be distributed through the PBA.

Apprenticeship/Trainee System:

- Support for Trainee Program: With SLP assistance, the PBA in Gaza has resumed weekly lectures on a variety of legal topics for the benefit of apprentice lawyers;
- CLE Offerings Open to Trainees: As discussed above, SLP has made a number of educational opportunities available to both lawyers and apprentices.

Conclusion

Rule of law remains one of the most important elements of the USAID Mission for West Bank & Gaza. As a part of the Mission's overall Democracy and Governance effort, SLP played a useful role in furthering Mission objectives, despite very adverse conditions that prevailed in the Palestinian Authority during most of the life of the project. In the course of 30 months, SLP completed some of its primary goals, and made significant progress on those goals that could not be achieved because of the prevailing conditions and the project's curtailment. When Israel and the Palestinian Authority realize, as they must in the end, that there is no solution to their problems except through resumption of the Peace Process, they will have to rely upon the groundbreaking work in promoting the rule of law that has been done by USAID in the West Bank and Gaza through contractors and grantees such as AMIDEAST. As we review the dismal history of these past 18 months, we must remember that we have helped build institutions for the future, not the present, and that those institutions may play a decisive role in any final, just resolution of the Israel-Palestine problem.